

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PEOPLE OF THE STATE OF
CALIFORNIA, et al.,

Plaintiffs,

v.

TYLER WAYNE MUNSON,

Defendant.

Case No. 21-cv-09155-JSC

**ORDER TO SHOW CAUSE RE:
FEDERAL SUBJECT MATTER
JURISDICTION**

Defendant initiated this matter by filing a notice of removal from Napa County Superior Court. (Dkt. No. 1.) He asserts federal subject matter jurisdiction under 28 U.S.C. §§ 1331 (federal question), 1343 (civil rights and elective franchise), and 1367 (supplemental jurisdiction).

The burden of establishing federal subject matter jurisdiction is on the party asserting it. *Kokkonen v. Guardian Life Ins. Co.*, 511 U.S. 375, 377 (1994). This case appears to arise from a traffic citation against Defendant under California law. (Dkt. No. 1 at 9–12.) Defendant’s answer and notice of removal assert counterclaims under the U.S. Constitution. (*Id.* at 1 ¶ 1, 3 ¶ 10; Dkt. No. 2 ¶ 3.) However, an actual or anticipated counterclaim is not a proper basis for federal question jurisdiction. *Vaden v. Discover Bank*, 556 U.S. 49, 60 (2009); *Holmes Grp., Inc. v. Vornado Air Circulation Sys., Inc.*, 535 U.S. 826, 830–32 (2002). Federal question jurisdiction “exists only when a federal question is presented on the face of the plaintiff’s properly pleaded complaint.” *Wayne v. DHL Worldwide Express*, 294 F.3d 1179, 1183 (9th Cir. 2002) (cleaned up).

Because Defendant asserts federal subject matter jurisdiction but no basis for such jurisdiction is apparent, Defendant is ORDERED to show cause why this case should not be remanded to state court for lack of federal subject matter jurisdiction. Defendant shall show cause

1 in writing on or before **March 10, 2022**. The initial Case Management Conference set for
2 February 24, 2022 is VACATED.

3 The Court encourages Defendant to seek free assistance from the Northern District's Legal
4 Help Center, 450 Golden Gate Avenue, 15th Floor, Room 2796, San Francisco, CA 94102. In
5 light of the ongoing COVID-19 pandemic, Defendant should make a telephone appointment by
6 calling (415) 782-8982. The website for the Northern District of California also has information
7 for litigants who are not represented by counsel.

8 **IT IS SO ORDERED.**

9 Dated: February 9, 2022

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12 JACQUELINE SCOTT CORLEY
13 United States Magistrate Judge
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Northern District of California